



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0304

Introduced 2/15/2005, by Sen. Martin A. Sandoval

SYNOPSIS AS INTRODUCED:

5 ILCS 312/2-105	from Ch. 102, par. 202-105
5 ILCS 312/3-101	from Ch. 102, par. 203-101
5 ILCS 312/6-102	from Ch. 102, par. 206-102
5 ILCS 312/7-105	from Ch. 102, par. 207-105
5 ILCS 312/7-106	from Ch. 102, par. 207-106
5 ILCS 312/7-107	from Ch. 102, par. 207-107

Amends the Illinois Notary Public Act. Requires a notary public applicant to provide a \$25,000 surety bond (now, a \$5,000 surety bond). Requires a notary public to keep a journal of notarial acts and specifies the required contents of the journal. With respect to satisfactory evidence that a person unknown to the notary is the person whose true signature appears on a document, requires (i) one witness known to the notary who knows the document signer and who is unaffected by the document or transaction or (ii) 2 witnesses who know the document signer and are unaffected by the document or transaction. Makes official misconduct involving notarial acts with respect to real estate documents a Class 1 felony. Makes willful impersonation of a notary public a Class 1 felony (now, a Class A misdemeanor). Makes unlawful possession of a notary's seal a Class 1 felony (now, a misdemeanor with a fine not exceeding \$1,000).

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Notary Public Act is amended by
5 changing Sections 2-105, 3-101, 6-102, 7-105, 7-106, and 7-107
6 as follows:

7 (5 ILCS 312/2-105) (from Ch. 102, par. 202-105)

8 Sec. 2-105. Bond. Every application for appointment and
9 commission as a notary public shall be accompanied by an
10 executed bond commencing on the date of the appointment with a
11 term of 4 years, in the sum of \$25,000 ~~\$5,000~~, with, as surety
12 thereon, a company qualified to write surety bonds in this
13 State. The bond shall be conditioned upon the faithful
14 performance of all notarial acts in accordance with this Act.
15 The Secretary of State may prescribe an official bond form.

16 (Source: P.A. 84-322.)

17 (5 ILCS 312/3-101) (from Ch. 102, par. 203-101)

18 Sec. 3-101. Official Seal and Journal.

19 (a) Each notary public shall, upon receiving the commission
20 from the county clerk, obtain an official rubber stamp seal
21 with which the notary shall authenticate his official acts. The
22 rubber stamp seal shall contain the following information:

23 (1) ~~(a)~~ the words "Official Seal";

24 (2) ~~(b)~~ the notary's official name;

25 (3) ~~(c)~~ the words "Notary Public", "State of Illinois",
26 and "My commission expires _____ (commission
27 expiration date)"; and

28 (4) ~~(d)~~ a serrated or milled edge border in a
29 rectangular form not more than one inch in height by two
30 and one-half inches in length surrounding the information.

31 (b) Each notary public shall procure, keep, maintain,

1 protect, and provide for lawful inspection a chronological
2 official journal of notarial acts that is a permanently bound
3 book with numbered pages. The journal shall be kept by the
4 notary public for at least 5 years after the date of its last
5 entry. However, a notary public who is either an attorney at
6 law admitted to practice in this State or an employee of such
7 an attorney may instead of a journal of notarial acts maintain
8 a record of notarial acts in the form of office files regularly
9 maintained for the attorney's law practice.

10 For every notarial act, the notary public shall record in
11 the journal at the time of notarization:

12 (1) The date, time, and type of notarial acts.

13 (2) The date and the type, title, or description of the
14 document or proceeding.

15 (3) The signature, printed name, and address of the
16 signer.

17 (4) If the notarial act involves a document of
18 conveyance or encumbrance affecting real property, the
19 right thumbprint of the party signing the document. If the
20 right thumbprint is unavailable, than the notary public
21 shall have the party use his or her left thumb, or any
22 available finger, and shall so indicate in the journal. If
23 the party signing the document is physically unable to
24 provide a thumbprint or fingerprint, the notary shall so
25 indicate in the journal and shall also provide an
26 explanation of that physical condition. This item (4) shall
27 not apply to a sheriff's deed or other judicial deed.

28 (5) How identification of the signer was made and a
29 description of the particular form of satisfactory
30 evidence.

31 (6) The fee, if any, charged for the notarial act.

32 (Source: P.A. 84-322.)

33 (5 ILCS 312/6-102) (from Ch. 102, par. 206-102)

34 Sec. 6-102. Notarial Acts.

35 (a) In taking an acknowledgment, the notary public must

1 determine, either from personal knowledge or from satisfactory
2 evidence, that the person appearing before the notary and
3 making the acknowledgment is the person whose true signature is
4 on the instrument.

5 (b) In taking a verification upon oath or affirmation, the
6 notary public must determine, either from personal knowledge or
7 from satisfactory evidence, that the person appearing before
8 the notary and making the verification is the person whose true
9 signature is on the statement verified.

10 (c) In witnessing or attesting a signature, the notary
11 public must determine, either from personal knowledge or from
12 satisfactory evidence, that the signature is that of the person
13 appearing before the notary and named therein.

14 (d) A notary public has satisfactory evidence that a person
15 is the person whose true signature is on a document if that
16 person:

17 (1) is personally known to the notary;

18 (2) is identified upon the oath or affirmation of a
19 credible witness unaffected by the document or transaction who
20 is personally known to the notary and who personally knows the
21 person, or of 2 credible witnesses unaffected by the document
22 or transaction who each personally knows the person and shows
23 to the notary reliable identification documents; or

24 (3) is identified on the basis of identification documents.

25 (e) The following definitions apply to subsection (d):

26 (1) "Personally known" means familiarity with an
27 individual resulting from interactions with that
28 individual over a period of time sufficient to ensure
29 beyond a reasonable doubt that the individual has the
30 identity claimed.

31 (2) "Reliable identification documents" means at least
32 one current document issued by a federal or state
33 government agency bearing the photographic image of the
34 individual's face and signature and a physical description
35 of the individual; provided that a properly stamped
36 passport without a physical description is acceptable.

1 (Source: P.A. 84-322.)

2 (5 ILCS 312/7-105) (from Ch. 102, par. 207-105)

3 Sec. 7-105. Official Misconduct.

4 (a) A notary public who knowingly and willfully commits any
5 official misconduct is guilty of a Class A misdemeanor;
6 provided that a notary public who knowingly and willfully
7 commits any official misconduct in connection with a notarial
8 act involving a document of conveyance or encumbrance affecting
9 real estate is guilty of a Class 1 felony.

10 (b) A notary public who recklessly or negligently commits
11 any official misconduct is guilty of a Class A ~~B~~ misdemeanor.

12 (Source: P.A. 84-322.)

13 (5 ILCS 312/7-106) (from Ch. 102, par. 207-106)

14 Sec. 7-106. Willful Impersonation. Any person who acts as,
15 or otherwise willfully impersonates, a notary public while not
16 lawfully appointed and commissioned to perform notarial acts is
17 guilty of a Class 1 felony ~~A misdemeanor~~.

18 (Source: P.A. 84-322.)

19 (5 ILCS 312/7-107) (from Ch. 102, par. 207-107)

20 Sec. 7-107. Wrongful Possession. Any person who unlawfully
21 possesses a notary's official seal is guilty of a Class 1
22 felony ~~misdemeanor and punishable upon conviction by a fine not~~
23 ~~exceeding \$1,000.~~

24 (Source: P.A. 84-322.)